

Summary of Public Speakers and Written Testimony Received			
Source	Date	Issue	Staff Comment
Public Speaker 1: Jim Whalen, Investment Properties, Inc.	12/7/09	Mr. Whalen thinks the RORZOR process was "inherently flawed." He claims the process was done "in reverse," i.e., RORZOR essentially wrote the new Zoning Ordinance with help from professional planning (City) staff, instead of <i>vice versa</i> . He foresees staff coming up with many other "work-a-rounds" in relation to addressing future implementation issues associated with the Zoning Ordinance. Mr. Whalen discussed the Town Center and noted that Town Square is only 3.2% of the entire project area. He also noted that the 20% public use space requirement is too excessive for all Mixed-Use Zones. In relation to the proposed ZTA, Mr. Whalen was "all for flexibility," but thinks the adopted public use space requirement is starting in a "flawed and unfair place." He went on to reference that the public use space requirement would result in Mixed-Use zoned properties losing value.	General Comment on the 20% Public Use Space Policy: All of the public comments have raised a broader policy issue related to the adopted 20% public use space requirement. The 20% public use space requirement should be discussed separately from the subject ZTA and fee in lieu calculation. Staff recommends that the Mayor and Council direct staff to conduct further research on the issue and return with a recommendation for discussion. The noted 3.2% public use space associated with Town Center is limited to Town Square. When other areas of public use space within Town Center are added, e.g., outside dining areas, fountains, public seating areas, etc., the percentage is approximately 18%.
Public Speaker 2: Sue Seboda, Managing Partner, Congressional Motors	12/7/09	Ms. Seboda supported the flexibility of the ZTA, but wanted it to apply to all Mixed-Use Zones, not just the Mixed-Use Employment (MXE) Zone. She also wanted the public use space requirement to be evaluated zone by zone, as an alternative to implementing it as an across-the-board requirement. Ms. Seboda was also concerned about "already developed sites" that would have to comply with the public use space requirement if part of the site were redeveloped. She also noted that the fee is "excessive" and makes Rockville appear as a city that is "not business friendly."	Staff is recommending the "open area" flexibility be extended to all Mixed-Use Zones, not just the MXE Zone. See General Comment above.

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Public Speaker 3: Pat Harris, Esq., Holland and Knight	12/7/09	Stated that she was representing multiple MXE property owners. She talked about the RORZOR process and stated that they (RORZOR) recognized 20% public use space as being "too high." She went on to mention that the requirement would result in "retail projects being set back too far," which would ultimately "compromise the streetscape" of mixed-use projects. She noted that the County does has a 10% public use space requirement for standard method development in their Central Business District (CBD) Zones. In addition, in the County's new CR Zone for the White Flint area, there is also a 10% public use space requirement. She supports the recommendation to allow for an open area as an alternative to public use space. She also supports the proportional imposition of the public use space requirement for existing development, but suggested the maximum be capped for redevelopment projects at 15% instead of 20% public use space. Ms. Harris also mentioned that the ZTA was a "step in the right direction."	See General Comment above.
Public Speaker 4: Anthony Greenburg, Associate, The JBG Companies	12/7/09	Mr. Greenburg thought the 20% public use space requirement was "excessive." He suggested that it makes more sense to "increase density" near Metro. He also wanted redevelopment projects to be treated differently than brand new development. Mr. Greenburg stated that the ZTA makes a "ton of sense." However, he recommended an alternative to use the "amount of existing development retained" (instead of existing gross floor area) as the trigger for the proposed proportionate public use space application.	See General Comment above.

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EXHIBIT 1: Kathleen Reitz, Whalen Properties, Inc.	12/14/09	The public use space requirement should be eliminated. Thinks the fee in lieu calculation is too high. Believes small properties will be adversely affected.	If the public use space requirement were to be revisited, staff would NOT agree with the notion of eliminating it entirely. See General Comment above.
EXHIBIT 2: Glenn Looper, Looper Service Center, Inc.	12/14/09	The public use space requirement is unreasonably. Makes it difficult to redevelop a property.	See General Comment above.
EXHIBIT 3: Sue Seboda, Managing Partner, Congressional Motors	12/14/09	Desires open area flexibility to be extended to all MX Zones. Thinks the fee in lieu is excessive. Also wants the 20% public use space standard to be reexamined.	See General Comment above.
EXHIBIT 4: James Whalen, President, Investment Properties, Inc.	12/14/09	The 20% public use space requirement is too high. Noted that Town Center is only comprised of 3.2% public use space	See General Comment above.
EXHIBIT 5: Raymond Whalen, President, Investment Properties, Inc.	12/14/09	The 20% public use space requirement is too high. Thinks the fee in lieu calculation is too high. Wants landowners to be notified and record to be open longer. Also raises questions about the legality of the requirement and the fee in lieu.	The fee in lieu calculation is a representation of the cost the City would incur to eventually acquire and/or improve another more useable public use space in the vicinity of a project not providing public use space. The basis of the calculation is consistent with other jurisdictions' fee in lieu methodologies. The public use space requirement and fee in lieu calculation have been reviewed and approved by the City Attorney's Office. In relation to the record being open longer, the Mayor and Council acted to extend the public comment period through December 28, 2009. Pursuant to State law, the December 7, 2009, public hearing was advertised two successive times in the Gazette Newspaper (11/25/09 and 12/2/09).

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EXHIBIT 6: Barry Dunn, Barry Dunn & Associates, PC	12/14/09	The 20% public use space requirement should be adjusted. Doesn't support the across-the-board approach.	See General Comment above.
EXHIBIT 7: Patricia Harris, Holland & Knight	12/14/09	Supports "open area" flexibility in the MXE Zone. Also supports the proportionately scaled application of the public use space requirement for expansions to existing development. Recommends modifications to the proportionate scale.	Staff appreciates the modifications recommended. However, the intent of the suggested modifications are to lower the public use space percentage (even further) for expansions to existing development. The proposed ZTA already proportionately scales the public use space requirement down significantly from the required 20%.
EXHIBIT 8: William Kominers, Holland & Knight	12/14/09	Supports "open area" flexibility in all MX Zones, not just MXE. Supports a zone-by-zone reevaluation of the public use space requirement. Believes the 20% requirement is too high.	The "open area" flexibility was initially proposed by staff as an alternative to public use space for all MX Zone office and industrial projects. The Planning Commission recommended that the "open area" flexibility be limited to the Mixed-Use Employment (MXE) Zone, since that zone is intended for office, light industrial and industrial park type uses. Staff still supports extending the open area flexibility to all MX Zones. See General Comment above.
EXHIBIT 9: Andrea Jolly, Executive Director, Rockville Chamber of Commerce	12/28/09	Concerned fee in lieu (at its current rate) will have a negative effect on business. The 20% public use space requirement is too high. Businesses will look at sites in Gaithersburg and Bethesda as a result of the public use space requirement. In general, the public use space requirement will adversely effect business in Rockville.	See General Comment above.
EXHIBIT 10: Larry Gordon, Shulman Rogers	12/14/09	Supports "open area" flexibility. Wants flexibility extended to auto dealerships. Believes the fee in lieu is too high.	Staff would support "open area" flexibility for automobile dealerships. However, companion to this request, Mr. Rogers also requests a 10% public use space requirement for automobile dealerships. This request relates to the larger policy issue of the 20% public use space requirement. See General Comment above.